Human Rights

THE RIGHTS OF MIGRANT WORKERS

Fact Sheet No. 24

World Campaign for Human Rights

The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES*

(Art. 2, para. 1)

* Adopted by General Assembly resolution 45/158 of 18 December 1990.

Introduction

In December 1990, the General Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see annex).

The Convention opened a new chapter in the history of efforts to establish the rights of migrant workers and to ensure that those rights are protected and respected. It is a comprehensive international treaty, inspired by existing legally binding agreements, by United Nations human rights studies, by the conclusions and recommendations of meetings of experts, and by the debates and resolutions on the migrant worker question in United Nations bodies over the past two decades.

Like all other international human rights agreements, the Convention sets standards which create a model for the laws and the judicial and administrative procedures of individual States. Governments of States which ratify or accede to the Convention undertake to apply its provisions by adopting the necessary measures. They undertake to ensure that migrant workers whose rights have been violated may seek judicial remedy.

After outlining the types of problems which cause the greatest concern to migrant workers and their families, this Fact Sheet describes the action taken internationally to promote and defend their rights.

Human rights and migrant workers

The migrant worker is not a product of the twentieth century. Women and men have been leaving their homelands in search of work elsewhere ever since payment in return for labour was introduced. The difference today is that there are far more migrant workers than in any period of human history. Millions of people now earning their living—or looking for paid employment—came as strangers to the States where they reside. There is no continent, no region of the world, which does not have its contingent of migrant workers.

Why do they emigrate?

Poverty and the inability to earn enough or produce enough to support oneself or a family are major reasons behind the movement of work-seekers from one State to another. These are not only characteristics of migration from poor to rich States; poverty also fuels movements from one developing country to others where work prospects seem—at a distance, at least—to be better.

There are other reasons why people go abroad in search of work. War, civil strife, insecurity or persecution arising from discrimination on the grounds of race, ethnic origin, colour, religion, language or political opinion all contribute to the flow of migrant workers.

Preparing to migrate

Some States encourage their citizens to go abroad to work; others actively recruit foreign workers. There are, in certain cases, bilateral agreements between States covering migrant labour.

Ideally, migrant workers—whether under contract or other formal arrangements, or simply setting off on their own initiative—should be given a basic understanding of the language, culture and legal, social and political structures of the States to which they are going. They should be informed in advance of the wages and working conditions and general living conditions they can expect to find on arrival.

Article 33 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families requires States parties to take the measures they deem appropriate to ensure that migrant workers and members of their families are informed, upon request, free of charge and, as far as possible, in a language they are able to understand, of their rights under the Convention and on all matters that will enable them to comply with administrative or other formalities in the State of employment. Furthermore, article 37 of the Convention establishes the right of migrant workers and members of their families to be informed "before their departure, or at the latest at the time of their admission to the State of employment" of all condi-

tions applicable to their admission, as well as of "the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions".

Where official employment services assist in managing migration flows, there is a better chance that migrants will receive the minimum preparation for life and work abroad than if recruitment and placement are left in the hands of private agents.

The fact remains that vast numbers of migrant workers are uninformed and ill-prepared to cope with life and work in a foreign country. Equally, most of them are unaware of the human rights protection and fundamental freedoms which they are guaranteed under international treaties and national laws.

Problems of adjustment

Migrant workers are aliens. They may, on this account alone, be the targets of suspicion or hostility in the communities where they live and work. In most cases financially poor, they share the handicaps—economic, social and cultural—of the least-favoured groups in the society of the host State.

Discrimination against migrant workers in the field of employment takes many forms. These include exclusions or preferences as regards the types of jobs which are open to migrants, and difficulty of access to vocational training. Different standards are often applied to nationals, on the one hand, and migrants, on the other, as regards job tenure, and contracts may deprive migrants of certain advantages.

Article 25, paragraph 1, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families establishes that "Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration" and other conditions of work and terms of employment. Paragraph 3 of the same article requires States parties to take all appropriate measures to ensure that migrant workers are not deprived of these rights.

Cases are cited of legal and administrative rules which force migrants to remain in certain occupations and specific regions, as well as of inequalities in pay and grading for identical jobs. Migrant workers are known to have been excluded from the scope of regulations covering working conditions, and to have been denied the right to take part in trade-union activities.

A widespread tendency is to regard migrants as a complementary labour force, and to assign them to the jobs which have the least attraction for nationals.

Social and cultural handicaps

Living conditions for migrant workers are often unsatisfactory. Low incomes, high rents, housing shortages, the size of migrants' families, and local prejudice against foreign elements in the community are the main factors which combine to cause a serious accommodation problem.

Although migrant workers contribute to social security schemes, they and their families do not always enjoy the same benefits and access to social services as nationals of the host State.

In very many cases, migrant workers leave their families in their home State. A solitary existence handicaps the development of normal contacts with the community in which the migrant lives and affects his or her well-being. This is one of the issues tackled in certain international legal instruments which are referred to in this Fact Sheet, and which call upon States to facilitate the reunification of migrant workers' families.

The integration of migrant workers and their families into the social environment of receiving States without loss of their cultural identity is another problem which has been the subject of international debate. It has often been said that the children of migrants—studying in a different language and trying to adapt to new customs—cannot be expected to equal the performance of their fellow pupils unless special measures are taken to overcome their difficulties. The factor of resistance on the part of local parents who fear that overall educational standards will decline with the admission of migrant children has become a sensitive issue in some States.

Arbitrary expulsion and voluntary return

International legal instruments establish protection for migrant workers against arbitrary expulsion when, for example, an employment contracts ends, and also provide for the right of appeal against expulsion orders.

Articles 22 and 56 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families address the issue of expulsion and arbitrary expulsion. Paragraph 1 of article 22 expressly prohibits measures of collective expulsion. An expulsion decision must be taken by the competent authority in accordance with law (art. 22, para. 2) and only for reasons defined in the national legislation of the State of employment (art. 56, para. 1). Paragraph 4 of article 22 requires that, except where a final decision has been pronounced by a judicial authority, "the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security required otherwise".

Migrant workers have the right to return home if they so wish. The view in international discussions has been that this question should be handled through cooperation between the State of origin and the receiving State. Returning migrants should benefit from guidance services and be given the opportunity to use the skills they have acquired abroad.

Illegal and clandestine migration

Migrant workers face the gravest risks to their human rights and fundamental freedoms when they are recruited, transported and employed in defiance of the law. Mass poverty, unemployment and underemployment in many developing countries offer a fertile field of recruitment to unscrupulous employers and private agents; in some cases, the undercover transfer of workers takes on the character of a criminal operation.

Without status, the illegal migrant is a natural target of exploitation. He or she is at the mercy of employers and may be obliged to accept any kind of job, and any working and living conditions. In the worst cases, the situation of migrant workers is akin to slavery or forced labour. Illegal migrants rarely seek justice for fear of exposure

and expulsion, and in many States have no right of appeal against administrative decisions which affect them.

Halting the traffic

In times of economic recession, it is a common practice to restrict legal migration by foreign workers. Raising the barriers to legal entry, however, tends to have only a temporary or limited effect, and turns the flow of would-be migrants towards illegal channels.

Stiffer penalties for middlemen who recruit, and for employers who accept, illegal migrant labour have been proposed and introduced in some States.

Under article 68 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, States parties are required to "collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation". More specifically, States parties are required to take appropriate measures against the dissemination of misleading information relating to emigration and immigration; measures to detect and eradicate illegal or clandestine movements; and measures to impose effective sanctions on persons, groups or entities which organize, operate or assist illegal or clandestine migration, use violence, threats or intimidation against migrant workers in an irregular situation, or employ such workers.

However, there is little hope of wiping out the clandestine traffic in foreign labour without attacking the basic causes of all worker migration, namely economic underdevelopment and chronic underemployment. In this sense, measures which promote economic development and narrow the gap between the industrialized countries and the developing regions are an evident way of helping to solve the problem.

Three aspects of illegal migration have been underlined in international debates. They concern the unlawful migrant as a violator of immigration laws, as a worker, and as a human being. The conclusion has been that each of these situations has its own legal consequences which should not be confused to the detriment of the individual worker's rights.

Aspects of international action

International Labour Organisation

The International Labour Organisation (ILO) has been in the forefront of efforts to secure and maintain a fair deal for migrant workers and their families since the 1920s.

ILO's contribution to achieving greater justice for migrant workers takes two main forms. First, certain ILO conventions and recommendations set the pattern for national laws, as well as judicial and administrative procedures, relating to migration for employment. Secondly, through its technical cooperation projects, ILO helps to secure the human rights of migrant workers.

The two major ILO conventions concerning migrant workers are the Migration for Employment Convention (Revised) (No. 97) of 1949 and the Migrant Workers (Supplementary Provisions) Convention (No. 143) of 1975.

Convention No. 97 contains a series of provisions designed to assist migrants for employment. For example, it calls upon ratifying States to provide relevant information to other ILO member States and to the organization, to take steps against misleading propaganda, and to facilitate the departure, journey and reception of migrants.

The Convention also requires ratifying States to put migrants lawfully within their territory on the same footing as their own nationals in applying a wide range of laws and regulations relating to their working life, without discrimination on the grounds of nationality, race, religion or sex.

Convention No. 143 deals in Part I with migration in abusive conditions, and in Part II with equality of opportunity and treatment. States which ratify the Convention have the option to accept the whole instrument or one or other of its two parts.

The Convention provides that States must respect the basic human rights of all migrant workers. They must also prevent clandestine migration for employment and stop manpower trafficking activities. Furthermore, States must declare and pursue a policy to secure equality of treatment in respect of matters such as employment and occupation, social security, and trade-union and cultural rights.

With regard to technical cooperation, ILO has developed an inter-regional project to combat discrimination against migrant workers. The project, which focuses on industrialized migrant-receiving States, aims at tackling informal or de facto discrimination—unequal treatment of migrant workers which, according to the statute-books, should not occur. Preliminary research findings have made it clear that this kind of discrimination is widespread and persistent. The objective of the project is to assist States in fighting discrimination by informing policy makers, employers' and workers' organizations, persons engaged in anti-discrimination training activities and non-governmental organizations how legislative and related redress mechanisms and training activities can be rendered more effective, on the basis of an international comparison of the efficacy of such measures and activities.

In 1995, in a document submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, ILO pointed out that its activities had contributed substantially to acceptance of the concept of equality in the treatment of migrant workers and to the elimination of discrimination. It also referred to new activities aimed at protection of migrant workers in Africa, America, Asia and the Pacific, and Europe through the application of international norms within the framework of the constitutional and national legislation of host States.

Education of migrants and their families

Both the United Nations Commission for Social Development and the United Nations Educational, Scientific and Cultural Organization (UNESCO) have given particular attention to the educational needs of the children of migrant workers.

The United Nations Children's Fund (UNICEF) has also in recent years been looking more closely at the promotion and protection of the rights of children of migrant workers, who are full beneficiaries of all provisions in the Convention on the Rights of the Child. A number of research publications from UNICEF's International Child Development Centre have dealt with their situation, both as migrants *per se* and as ethnic minorities in the host State.

* * *

In dealing with particular aspects of migrant workers' rights, or with situations specific to certain regions and countries, all the initiatives described above helped to lay the foundation for an international convention: an instrument that would comprehensively cover the human rights and fundamental freedoms of migrant workers and their families and be sufficiently flexible to be applied throughout the world.

Towards a comprehensive agreement

A. Introduction

Illegal trafficking in labour was the issue which brought the question of migrant workers' rights into the orbit of debate in the United Nations at the beginning of the 1970s.

The Economic and Social Council (ECOSOC) expressed alarm in 1972 at the illegal transportation of labour to some European States organized by criminal elements, and at the exploitation of workers from some African States "in conditions akin to slavery and forced labour" (resolution 1706 (LIII), preamble). The Council deplored the fact that advantage was being taken of mass poverty, ignorance and unemployment in the States of origin to exploit and profit from labour through illicit and clandestine trafficking, and appealed to Governments to track down and try the culprits and to take legal steps to combat the problem.

Later the same year, the General Assembly condemned discrimination against foreign workers and called upon Governments to end such practices and to improve reception arrangements for migrant labour (resolution 2920 (XXVII)). It also invited Governments to ensure respect for the International Convention on the Elimination of All Forms of Racial Discrimination and urged them to ratify ILO Convention No. 97.

States were again urged to ratify ILO Convention No. 97 and to conclude bilateral agreements on migration for employment in a 1973 ECOSOC resolution (1789 (LIV), which asked the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on the Status of Women to study the question of illicit and clandestine trafficking in labour.

B. Relevant studies and seminars

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, after agreeing that there were two aspects to the problem—illicit and clandestine operations, on the one hand, and discriminatory treatment of migrant workers in host States, on the other—requested one of its members, Mrs. Halima Warzazi, to undertake a study of the exploitation of labour through illicit and clandestine trafficking. Mrs. Warzazi's final report and recommendations were considered by the Commission on Human Rights in 1976.

In the meantime, the World Population Plan of Action had been adopted by the United Nations World Population Conference held at Bucharest in 1974. The Plan of Action contained recommendations on the international migration of workers and dealt in particular with the control of discriminatory practices and illicit traffic.

The Seminar on the Human Rights of Migrant Workers, organized by the United Nations, was held at Tunis in November 1975. Among its conclusions, the seminar emphasized the need to accord migrant workers equality before the law with regard to human rights and labour legislation; to treat humanely aliens who remain in a State illegally; and to avoid situations in which migrant workers are kept in illegal status for long periods. The seminar also drew attention to the fact that States of origin, as well as receiving States, had responsibilities towards migrant workers.

Another milestone along the road to the international convention was the study on international provisions protecting the human rights of non-citizens prepared by Baroness Elles for the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1979. The study concluded that the rights of aliens were not yet universally protected and that the application of international human rights norms to aliens was unclear and uncertain. Baroness Elles therefore suggested the adoption by the international community of a draft declaration on the "human rights of individuals who are not citizens of the country in which they live".

In 1985, the Economic and Social Council recognized the need for further efforts—national, bilateral, regional and international—to improve the social situation of migrant workers and their families (resolution 1985/24). The Council invited member States to establish or expand welfare programmes to meet new needs and problems created by changes in the international migration of labour. It emphasized the protection of migrants' families and sought a substantial improve-

ment in the conditions for family integration—particularly of women and young people—into the host society. Special care, the resolution stated, should be paid to the education of children so that they develop knowledge of their maternal language and cultural heritage.

The International Seminar on Cultural Dialogue between the Countries of Origin and the Host Countries of Migrant Workers, organized by the United Nations, was held at Athens in September 1989. The seminar was held in response to a request by ECOSOC (resolution 1988/6, paras. 11-12) for the Secretary-General to pay special attention to the situation of migrant workers and their families.

In dealing with the integration of migrant workers and their families in a regular situation, the seminar underlined the catalytic role of education. Participants agreed that learning the language of the host State was of crucial importance for successful integration. At the same time, it was important that children should maintain their identity; to this end, education should be bilingual.

The seminar also concluded that migrant workers should have the right and the opportunity to form and join associations of their own. Membership of trade unions opened a way to participation by migrant workers in public affairs. Non-governmental organizations had an important role to play in the integration process. In its recommendations on civic rights, the seminar called upon host States to facilitate the use by migrant workers of voting rights in their State of origin and to consider—where possible—extending to them the right to vote and stand for election. The seminar also recommended implementation of the right to family reunion.

C. The drafting of the International Convention

It was the first World Conference to Combat Racism and Racial Discrimination, held at Geneva in 1978, which recommended the elaboration of an international convention on protection of the rights of migrant workers. The General Assembly made a similar recommendation in a 1978 resolution (33/163) on "measures to improve the situation and ensure the human rights and dignity of all migrant workers".

A working group open to all Member States was established in 1980 to elaborate a convention and the international organs and organizations concerned—the Commission on Human Rights, the Commission for Social Development, the International Labour Organisation, the United Nations Educational, Scientific and Cultural

Organization and the World Health Organization—were invited to contribute to the task.

Reconstituted at successive annual sessions of the General Assembly, the working group completed the drafting of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 1990.

The Convention was adopted by the General Assembly on 18 December 1990 and opened for signature by all Member States of the United Nations. Individual States could then ratify the Convention. Ratification requires the approval of the competent national authority—generally the parliament. States may also accede to the Convention by combining signature and ratification in one act. The Convention will enter into force following ratification or accession by 20 States. When a State ratifies or accedes to the Convention, it becomes a State party.

The Convention and its application

The main thrust of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see annex) is that persons who qualify as migrant workers under its provisions are entitled to enjoy their human rights regardless of their legal status.

The Convention takes into account the relevant international labour standards, as well as the Slavery Conventions. It also refers to UNESCO's Convention against Discrimination in Education; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Code of Conduct for Law Enforcement Officials; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

The Convention first expresses the rights in question in ways which relate directly to the situation of migration for employment. It reflects an up-to-date understanding of migratory trends as seen from

the point of view of both States of origin and host States of migrant workers and their families. It distils more than half a century of expert opinion on the problems of migrant workers and takes into account the requirements of a wide range of international and national legal instruments.

The Convention breaks new ground in defining those rights which apply to certain categories of migrant workers and their families, including:

"frontier workers", who reside in a neighbouring State to which they return daily or at least once a week;

seasonal workers;

seafarers employed on vessels registered in a State other than their own;

workers on offshore installations which are under the jurisdiction of a State other than their own;

itinerant workers;

migrants employed for a specific project;

self-employed workers.

Part VI of the Convention imposes a series of obligations on States parties in the interest of promoting "sound, equitable, humane and lawful conditions" for the international migration of workers and members of their families. These requirements include the establishment of policies on migration; the exchange of information with other States parties; the provision of information to employers, workers and their organizations on policies, laws and regulations; and assistance to migrant workers and their families.

The Convention establishes rules for the recruitment of migrant workers, and for their return to their States of origin. It also details the steps to be taken to combat illegal or clandestine migration.

Application of the Convention

Under article 72 of the Convention, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families is to be established to review the application of the Convention

once it has entered into force, i.e. after ratification by 20 States. The Committee is to consist of 10 impartial experts, rising to 14 when 41 ratifications have been registered.

Members of the Committee are to be elected by States parties in a secret ballot, with due regard to fair geographical distribution, including both States of origin and States of employment of migrant workers, and to representation of the world's main legal systems. Members will serve in their personal capacity for a term of four years.

States parties accept the obligation to report on the steps they have taken to implement the Convention within a year of its entry into force for the State concerned, and thereafter every five years. The reports are expected to indicate problems encountered in implementing the Convention, and to provide information on migration flows. After examining the reports, the Committee will transmit such comments as it may consider appropriate to the State party concerned.

Close cooperation between the Committee and international agencies, in particular the International Labour Organisation, is foreseen in the Convention.

Under article 76, a State party may recognize the competence of the Committee to receive and consider communications from one State party alleging that another State party is not fulfilling its obligations under the Convention. Such communications may be received only from States parties which have so recognized the competence of the Committee. The Committee will deal with a matter referred to it in this way only after all available domestic remedies have been exhausted, and may then propose its good offices in an effort to reach a friendly solution.

Under article 77, a State party may recognize the competence of the Committee to receive and consider communications from or on behalf of individuals within that State's jurisdiction who claim that their rights under the Convention have been violated. Such communications may be received only if they concern a State party which has so recognized the competence of the Committee. If the Committee is satisfied that the matter has not been, and is not being, examined in another international context, and that all domestic remedies have been exhausted, it may call for explanations, and express its views.

Migrant workers and recent United Nations conferences

World Conference on Human Rights

The World Conference on Human Rights, held at Vienna in June 1993, invited States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as soon as possible. In the Vienna Declaration and Programme of Action which it adopted (part II, paras. 33-35), the Conference urged all States to guarantee the protection of the human rights of all migrant workers and their families. The Conference stated that the creation of conditions to foster greater harmony and tolerance between migrant workers and the rest of the society of host States was of particular importance.

International Conference on Population and Development

The International Conference on Population and Development, held at Cairo in September 1994, dealt with migration issues and, in particular, with the question of global migration. In chapter X of the Programme of Action which it adopted, the Conference called for a comprehensive international approach to dealing with international migration. Among the areas requiring action, the Conference identified mainly the root causes of migration and called for measures to deal with documented, as well as undocumented migrants.

World Summit for Social Development

At the World Summit for Social Development, held at Copenhagen in March 1995, States committed themselves, at the international level, to ensure that migrant workers benefit from the protection provided by relevant national and international instruments, to take concrete and effective measures against the exploitation of migrant workers and to encourage all States to consider ratifying and fully implementing international instruments relating to migrant workers.

In chapter III of the Programme of Action which it adopted, relating to expansion of productive employment and reduction of unemployment, the Summit workers recognized the need for intensified international cooperation and national attention regarding the situation of migrant workers and their families.

On the question of social integration (chap. IV), the Summit agreed that Governments should promote equality and social justice by, *inter alia*, expanding basic education and developing special measures to provide schooling for children and youth of, among others, migrant parents. It also agreed to promote equitable treatment and integration of documented migrant workers and their families.

In order to address concerns regarding undocumented migrants and satisfy their basic human needs, the Summit advocated various measures. It urged Governments to cooperate in reducing the causes of undocumented migration and in punishing criminals who organize trafficking in human beings, while safeguarding the basic human rights of undocumented migrants, preventing their exploitation, and offering them appropriate means of appeal in accordance with national legislation.

Fourth World Conference on Women

The plight of women migrant workers is also of concern to the United Nations, as they have been victims of violence and sexual exploitation. The Fourth World Conference on Women, held at Beijing in September 1995, paid considerable attention to the situation of migrant women. In the Platform for Action which it adopted (chap. IV.D), the Conference called on States to recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host State depends on employers who may exploit their situation. It also urged Governments to establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence.

In her preliminary report of November 1994 (E/CN.4/1995/42, para. 233), the Special Rapporteur of the Commission on Human Rights on violence against women, Ms. Radhika Coomaraswamy, called on sending and receiving States:

(*a*) To act affirmatively to regulate private recruitment agencies for women migrant workers;

(*b*) To establish outreach programmes for migrant women, providing legal, social and educational assistance;

(*c*) To ensure that police stations have trained female officers charged with helping migrant women to report cases of abuse;

(*d*) To ensure that migrant women are not excluded from the protection of national minimum labour standards, and actively to prosecute employers for violation of those standards.

Latest developments

Recently, new trends of racism and xenophobia have emerged which could affect the social well-being of migrant workers. The Commission on Human Rights and the General Assembly have therefore also urged States to ratify the International Convention.

As of 14 November 1995, only six States had ratified the Convention (Colombia, Egypt, Morocco, the Philippines, Seychelles and Uganda) and it had been signed by Chile, Mexico and Monaco.

ANNEX

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[a]

PREAMBLE

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No. 151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105),

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the

[a] Adopted by General Assembly resolution 45/158 of 18 December 1990.

Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials and the Slavery Conventions,

Recalling that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

Recognizing the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations,

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field.

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

Considering that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned,

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed as follows:

PART I

SCOPE AND DEFINITIONS

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or so-

cial origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

2. (*a*) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;

(*b*) The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;

(*c*) The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;

(*d*) The term "worker on an offshore installation" refers to a migrant worker employed on a offshore installation that is under the jurisdiction of a State of which he or she is not a national;

(*e*) The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;

(*f*) The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;

(*g*) The term "specified-employment worker" refers to a migrant worker;

(i) Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or

(ii) Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or

(iii) Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief;

and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;

(*h*) The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

(*a*) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(*b*) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(*c*) Persons taking up residence in a State different from their State of origin as investors;

(*d*) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

(*e*) Students and trainees;

(*f*) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention, the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(*a*) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(*b*) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (*a*) of the present article.

Article 6

For the purposes of the present Convention:

(*a*) The term "State of origin" means the State of which the person concerned is a national;

(*b*) The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;

(*c*) The term "State of transit" means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART II

NON-DISCRIMINATION WITH RESPECT TO RIGHTS

Article 7

States Parties undertake in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

PART III

HUMAN RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.

2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant workers or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.

2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4. For the purpose of the present article, the term "forced or compulsory labour" shall not include:

(*a*) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;

(*b*) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(*c*) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.

2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.

3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary;

(*a*) For respect of the rights or reputation of others;

(*b*) For the protection of the national security of the States concerned or of public order (*ordre public*) or of public health or morals;

(*c*) For the purpose of preventing any propaganda for war;

(*d*) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.

2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedures established by law.

4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner;

(*a*) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of the State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

(*b*) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

(*c*) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

(*a*) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;

(*b*) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;

(*c*) To be tried without undue delay;

(*d*) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

(*e*) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

(*f*) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

(*g*) Not to be compelled to testify against themselves or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she

has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(*a*) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by this term;

(*b*) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. State Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this

principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of any such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:

(*a*) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;

(*b*) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

(*c*) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (*ordre public*) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public preschool educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

(*a*) Their rights arising out of the present Convention;

(*b*) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall cooperate with other States concerned.

3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.

PART IV

OTHER RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES WHO ARE DOCUMENTED OR IN A REGULAR SITUATION

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (*ordre public*) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and mem-

bers of their families to have their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

(*a*) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;

(*b*) Access to vocational training guidance and placement services;

(*c*) Access to vocational training and retraining facilities and institutions;

(*d*) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;

(*e*) Access to social and health services, provided that the requirements for participation in the respective schemes are met;

(*f*) Access to cooperatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;

(*g*) Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of em-

ployment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

(*a*) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;

(*b*) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

(*c*) Access to social and health services, provided that requirements for participation in the respective schemes are met;

(*d*) Access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

(*a*) Upon departure from the State of origin or State of habitual residence;

(*b*) Upon initial admission to the State of employment;

(*c*) Upon final departure from the State of employment;

(*d*) Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:

(*a*) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;

(*b*) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

(*a*) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;

(*b*) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

(*a*) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;

(*b*) Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.

4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who

seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

(*a*) Protection against dismissal;

(*b*) Unemployment benefits;

(*c*) Access to public work schemes intended to combat unemployment;

(*d*) Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.

2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

PART V

PROVISIONS APPLICABLE TO PARTICULAR CATEGORIES OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (*a*), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.

2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (*b*), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.

2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (*e*), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (*f*), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraph 1 (*b*) and (*c*), article 43, paragraph 1 (*d*), as it pertains to social housing schemes, article 45, paragraph 1 (*b*), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers, as defined in article 2, paragraph 2 (*g*), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraph 1 (*b*) and (*c*), article 43, paragraph 1 (*d*), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (*d*).

2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in pat IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (*h*), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

PART VI

PROMOTION OF SOUND, EQUITABLE, HUMANE AND LAWFUL CONDITIONS IN CONNECTION WITH INTERNATIONAL MIGRATION OF WORKERS AND MEMBERS OF THEIR FAMILIES

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and cooperate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2. In this respect, due regard shall be paid only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, *inter alia*:

(*a*) The formulation and implementation of policies regarding such migration;

(*b*) An exchange of information, consultation and cooperation with the competent authorities of other States Parties involved in such migration;

(*c*) The provision of appropriate information, particularly to employers, workers and their organizations, on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;

(*d*) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

2. States parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:

(*a*) Public services or bodies of the State in which such operations take place;

(*b*) Public services or bodies of the State of employment on the basis of agreement between the States concerned;

(*c*) A body established by virtue of a bilateral or multilateral agreement.

2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall cooperate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.

2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall cooperate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine move-

ments and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:

(*a*) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;

(*b*) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

(*c*) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers *vis-à-vis* their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.

2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

PART VII

APPLICATION OF THE CONVENTION

Article 72

1. (*a*) For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");

(*b*) The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. (*a*) Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;

(*b*) Members shall be elected and shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.

5. (*a*) The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;

(*b*) The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The terms of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

(*c*) The members of the Committee shall be eligible for re-election if renominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint an other expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

(*a*) Within one year after the entry into force of the Convention for the State Party concerned;

(*b*) Thereafter every five years and whenever the Committee so requests.

2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

3. The Committee shall decide any further guidelines applicable to the content of the reports.

4. States parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.

2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office

copies of the reports submitted by States parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.

3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies, as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.

4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies, to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.

7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.

8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

Article 75

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The Committee shall normally meet annually.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(*a*) If a State Party to the present Convention considers that another State party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(*b*) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(*c*) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;

(*d*) Subject to the provisions of subparagraph (*c*) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter

on the basis of respect for the obligations set forth in the present Convention;

(*e*) The Committee shall hold closed meetings when examining communications under the present article;

(*f*) In any matter referred to it in accordance with subparagraph (*b*) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (*b*), to supply any relevant information;

(*g*) The States Parties concerned, referred to in subparagraph (*b*) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(*h*) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (*b*) of the present paragraph, submit a report, as follows:

(i) If a solution within the terms of subparagraph (*d*) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (*d*) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the

Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3. The Committee shall not consider any communication from an individual under the present article unless it has ascertained that:

(*a*) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(*b*) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

PART VIII

GENERAL PROVISIONS

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the con-

stitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

(*a*) The law or practice of a State Party; or

(*b*) Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or forgoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

(*a*) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(*b*) To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(*c*) To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

PART IX

FINAL PROVISIONS

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.

2. The present Convention shall be open to accession by any State.

3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority

of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that

declaration by notification to the Secretary-General of the United Nations,

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Human Rights Fact Sheets:

No. 1 *Human Rights Machinery*

No. 2 *The International Bill of Human Rights* (Rev. 1)

No. 3 *Advisory Services and Technical Assistance in the Field of Human Rights* (Rev. 1)

No. 4 *Methods of Combating Torture*

No. 5 *Programme of Action for the Second Decade to Combat Racism and Racial Discrimination*

No. 6 *Enforced or Involuntary Disappearances* (Rev. 1)

No. 7 *Communications Procedures*

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